

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Geren, Guillen

H.B. No. 3648

A BILL TO BE ENTITLED

AN ACT

relating to the eligibility and designation of certain gas entities and gas facilities as critical during an energy emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter D, Chapter 38, Utilities Code, is amended by adding Section 38.074 to read as follows:

Sec. 38.074. CRITICAL GAS ENTITIES AND FACILITIES DURING AN ENERGY EMERGENCY. (a) The commission shall work with the Railroad Commission of Texas and adopt rules to establish a process to designate certain natural gas facilities and entities associated with providing natural gas in this state as critical during an energy emergency.

(b) The commission by rule shall require each electric utility, municipally owned utility, and electric cooperative to exclude any circuits that provide power to an entity or facility designated under Section 81.073, Natural Resources Code, from participation in the utility's or cooperative's attempt to shed load in response to a rolling blackout initiated by an independent organization certified under Section 39.151 or another reliability council or power pool in which the utility or cooperative operates.

(c) At a minimum, the commission's rules must:

(1) ensure that transmission and distribution utilities, municipally owned utilities, electric cooperatives, and the independent organization certified under Section 39.151 for the

1 ERCOT power region are provided with the information required by  
2 Section 81.073, Natural Resources Code;

3 (2) provide for a prioritization for load-shed  
4 purposes of the entities and facilities designated under Subsection  
5 (a) during an energy emergency; and

6 (3) provide discretion to transmission and  
7 distribution utilities, municipally owned utilities, and electric  
8 cooperatives to prioritize power delivery and power restoration  
9 among the customers on their respective systems, as circumstances  
10 require.

11 SECTION 2. Subchapter C, Chapter 81, Natural Resources  
12 Code, is amended by adding Section 81.073 to read as follows:

13 Sec. 81.073. CRITICAL GAS ENTITIES AND FACILITIES DURING AN  
14 ENERGY EMERGENCY. (a) The commission shall work with the Public  
15 Utility Commission of Texas to designate certain natural gas  
16 facilities and entities associated with providing natural gas in  
17 this state as critical during an energy emergency.

18 (b) At a minimum, the commission's rules must:

19 (1) establish eligibility and designation  
20 requirements for persons who own or operate a facility under the  
21 jurisdiction of the commission under Section 81.051(a) or engage in  
22 an activity under the jurisdiction of the commission under Section  
23 81.051(a) who must provide critical customer designation and  
24 critical gas supply information, as defined by the commission, to  
25 the entities described by Section 38.074(c)(1), Utilities Code; and

26 (2) consider essential operational elements when  
27 defining critical customer designations and critical gas supply

1 information, including natural gas production, processing, and  
2 transportation and related produced water handling and disposal  
3 facilities and the delivery of natural gas to generators.

4 SECTION 3. (a) The Public Utility Commission of Texas and  
5 Railroad Commission of Texas shall adopt the rules required by this  
6 Act not later than September 1, 2021.

7 (b) The Public Utility Commission of Texas shall provide a  
8 report to the legislature regarding its implementation of the  
9 designation and prioritization requirements, as added by this Act,  
10 not later than January 1, 2022.

11 SECTION 4. EFFECTIVE DATE. This Act takes effect  
12 immediately if it receives a vote of two-thirds of all the members  
13 elected to each house, as provided by Section 39, Article III, Texas  
14 Constitution. If this Act does not receive the vote necessary for  
15 immediate effect, this Act takes effect December 1, 2021.

**ADOPTED**

MAY 19 2021

By: Gerren Hancock

Substitute the following for

.B. No.

Latey Spaw  
Secretary of the Senate

H.B. No. 3643

By: Kelly Harwood

C.S. H.B. No. 3643

A BILL TO BE ENTITLED

1

AN ACT

2

relating to the provision of natural gas and electric services in  
3 this state.

4

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5

SECTION 1. Subchapter C, Chapter 81, Natural Resources  
6 Code, is amended by adding Section 81.073 to read as follows:

7

Sec. 81.073. CRITICAL NATURAL GAS FACILITIES AND ENTITIES.

8

(a) The commission shall collaborate with the Public Utility  
9 Commission of Texas to adopt rules to establish a process to  
10 designate certain natural gas facilities and entities associated  
11 with providing natural gas in this state as critical customers or  
12 critical gas suppliers during energy emergencies.

13

(b) The rules must:

14

(1) establish criteria for designating persons who own  
15 or operate a facility under the jurisdiction of the commission  
16 under Section 81.051(a) or engage in an activity under the  
17 jurisdiction of the commission under Section 81.051(a) who must  
18 provide critical customer and critical gas supply information, as  
19 defined by the commission, to the entities described by Section  
20 38.074(b)(1), Utilities Code; and

21

(2) consider essential operational elements when  
22 defining critical customer designations and critical gas supply  
23 information for the purposes of Subdivision (1), including natural  
24 gas production, processing, transportation, and the delivery of

1 natural gas to generators of electric energy.

2 SECTION 2. Subchapter A, Chapter 31, Utilities Code, is  
3 amended by adding Section 31.006 to read as follows:

4 Sec. 31.006. LIMITED LIABILITY OF CERTAIN ELECTRIC  
5 UTILITIES. An electric utility that complies with an instruction,  
6 directive, order, regulation, or restriction regarding the  
7 operation of the electric utility's transmission or distribution  
8 system issued by an independent organization certified under  
9 Section 39.151 or a regulatory authority is not liable for any  
10 direct or consequential damages, including without limitation  
11 bodily or other personal injury, emotional injury, death, property  
12 damage, loss of profits, loss of revenue, or loss of production  
13 capacity, caused by the electric utility's compliance with the  
14 instruction, directive, order, regulation, or restriction.

15 SECTION 3. Subchapter D, Chapter 38, Utilities Code, is  
16 amended by adding Section 38.074 to read as follows:

17 Sec. 38.074. CRITICAL NATURAL GAS FACILITIES AND ENTITIES.  
18 (a) The commission shall collaborate with the Railroad Commission  
19 of Texas to adopt rules to establish a process to designate certain  
20 natural gas facilities and entities associated with providing  
21 natural gas in this state as critical during energy emergencies.

22 (b) The rules must:

23 (1) ensure that the independent organization  
24 certified under Section 39.151 for the ERCOT power region and each  
25 electric utility, municipally owned utility, and electric  
26 cooperative providing service in the ERCOT power region is provided  
27 with the information required by Section 81.073, Natural Resources

1 Code;

2 (2) provide for prioritizing for load-shed purposes  
3 during an energy emergency the facilities and entities designated  
4 under Subsection (a); and

5 (3) provide discretion to an electric utility,  
6 municipally owned utility, or electric cooperative providing  
7 service in the ERCOT power region to prioritize power delivery and  
8 power restoration among the facilities and entities designated  
9 under Subsection (a) on the utility's or cooperative's systems, as  
10 circumstances require.

11 SECTION 4. Section 31.006, Utilities Code, as added by this  
12 Act, applies only to a cause of action that accrues on or after the  
13 effective date of this Act.

14 SECTION 5. (a) The Public Utility Commission of Texas and  
15 Railroad Commission of Texas shall adopt rules required by Section  
16 81.073, Natural Resources Code, and Section 38.074, Utilities Code,  
17 as added by this Act, not later than December 1, 2021.

18 (b) The Public Utility Commission of Texas shall provide a  
19 report to the legislature regarding the implementation by the  
20 Public Utility Commission of Texas of the designation and  
21 prioritization requirements in this Act not later than January 1,  
22 2022.

23 SECTION 6. This Act takes effect immediately if it receives  
24 a vote of two-thirds of all the members elected to each house, as  
25 provided by Section 39, Article III, Texas Constitution. If this  
26 Act does not receive the vote necessary for immediate effect, this  
27 Act takes effect September 1, 2021.

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**May 19, 2021**

**TO:** Honorable Dade Phelan, Speaker of the House, House of Representatives

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB3648** by Geren (Relating to the provision of natural gas and electric services in this state.), **As Passed 2nd House**

**No significant fiscal implication to the State is anticipated.**

The bill would require the Public Utility Commission and the Railroad Commission to adopt rules to designate certain gas entities and facilities as critical during an energy emergency no later than September 1, 2021 and would require the Public Utility Commission to provide a report to the legislature by January 1, 2022.

Based on information provided by the Railroad Commission and the Public Utility Commission, it is assumed that duties and responsibilities associated with implementing the provisions of the bill could be accomplished utilizing existing resources.

The bill would take effect immediately upon receiving a two-thirds majority vote in both houses; otherwise, the bill would take effect September 1, 2021.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 455 Railroad Commission, 473 Public Utility Commission of Texas, 475 Office of Public Utility Counsel

**LBB Staff:** JMc, LBO, SZ, DA, AJL, MW

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**May 13, 2021**

**TO:** Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB3648** by Geren (relating to the provision of natural gas and electric services in this state.),  
**Committee Report 2nd House, Substituted**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would require the Public Utility Commission and the Railroad Commission to adopt rules to designate certain gas entities and facilities as critical during an energy emergency no later than September 1, 2021 and would require the Public Utility Commission to provide a report to the legislature by January 1, 2022.

Based on information provided by the Railroad Commission and the Public Utility Commission, it is assumed that duties and responsibilities associated with implementing the provisions of the bill could be accomplished utilizing existing resources.

The bill would take effect immediately upon receiving a two-thirds majority vote in both houses; otherwise, the bill would take effect September 1, 2021.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 455 Railroad Commission, 473 Public Utility Commission of Texas, 475 Office of Public Utility Counsel

**LBB Staff:** JMc, SZ, DA, AJL, MW

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**May 12, 2021**

**TO:** Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB3648** by Geren (Relating to the eligibility and designation of certain gas entities and gas facilities as critical during an energy emergency.), **As Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill would require the Public Utility Commission and the Railroad Commission to adopt rules to designate certain gas entities and facilities as critical during an energy emergency no later than September 1, 2021 and would require the Public Utility Commission to provide a report to the legislature by January 1, 2022.

Based on information provided by the Railroad Commission and the Public Utility Commission, it is assumed that duties and responsibilities associated with implementing the provisions of the bill could be accomplished utilizing existing resources.

The bill would take effect immediately upon receiving a two-thirds majority vote in both houses; otherwise, the bill would take effect September 1, 2021.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 455 Railroad Commission, 473 Public Utility Commission of Texas, 475 Office of Public Utility Counsel

**LBB Staff:** JMc, SZ, DA, AJL, MW

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**March 28, 2021**

**TO:** Honorable Craig Goldman, Chair, House Committee on Energy Resources

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB3648** by Geren (Relating to the eligibility and designation of certain gas entities and gas facilities as critical during an energy emergency.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would require the Public Utility Commission and the Railroad Commission to adopt rules to designate certain gas entities and facilities as critical during an energy emergency no later than September 1, 2021 and would require the Public Utility Commission to provide a report to the legislature by January 1, 2022.

Based on information provided by the Railroad Commission and the Public Utility Commission, it is assumed that duties and responsibilities associated with implementing the provisions of the bill could be accomplished utilizing existing resources.

The bill would take effect immediately upon receiving a two-thirds majority vote in both houses; otherwise, the bill would take effect September 1, 2021.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 455 Railroad Commission, 473 Public Utility Commission of Texas, 475 Office of Public Utility Counsel

**LBB Staff:** JMc, AJL, MW, DA